

**MINUTES OF MEETING
XENTURY CITY
COMMUNITY DEVELOPMENT DISTRICT**

The regular meeting of the Board of Supervisors of the Xentury City Community Development District was held Monday, June 14, 2010 at 11:00 A.M. at the Gaylord Palms Resort & Convention Center, 6000 West Osceola Parkway, Kissimmee, Florida.

Present and constituting a quorum were:

| | |
|-------------------------|---------------------|
| Steven R. Ivins | Chairman |
| Owen M. Beitsch | Vice Chairman |
| William C. Kercher, Jr. | Assistant Secretary |

Also present were:

| | |
|------------------|----------------------------------|
| Gary L. Moyer | Manager - Moyer Management Group |
| Scott Clark | District Attorney |
| Dimitri Toumazos | Xentury City Development |

FIRST ORDER OF BUSINESS

Roll Call

Mr. Moyer called the meeting to order and called the roll.

SECOND ORDER OF BUSINESS

Organizational Matter

A. Appointment of Supervisor to Fill the Unexpired Term of Office (11/2010)

Mr. Moyer stated we have a vacancy on this Board until November of 2010. If anyone has any nominations to fill this unexpired term, we can consider it at this time. Otherwise, we can continue this item for a future agenda.

Mr. Toumazos asked is this Mr. Owen's seat?

Mr. Ivins responded no, we always had one empty seat. We are going to keep this seat vacant.

Mr. Kercher asked when does my term expire?

Mr. Moyer responded we are going to extend the terms so they come due in November of this year. In November, we will have a landowner's election to fill three seats.

Mr. Moyer stated we will defer this item until November.

B. Resolution 2010-1 Extending the Terms of Office of the Supervisors to Comply with Chapter 190.006(2)(c), Florida Statutes

Mr. Moyer stated the reason why we want to extend the terms to even number years is if we ever get into a position of where we actually have General Elections in the District, to have

an off year election is expensive. If you do this with the normal election process, you pay virtually nothing because the County needs to have an election anyway. The Legislature recognized this a couple of years ago and permits Districts to extend terms to get them on even numbered year terms. We are proposing that the Board extend three terms; the vacancy, Mr. Owen's term and Mr. Kercher's term.

Mr. Kercher asked does this mean my term is up this year?

Mr. Moyer responded yes. We will extend the other two seats to 2012 to get all of the seats on even numbered terms.

Dr. Beitsch stated in looking at the minutes, I observed that Mr. Owen was not in attendance at the last meeting and I suggested seeing if he was interested in vacating his seat at the same time as Mr. Kercher. I mentioned that Mr. Moyer may want to talk to Mr. Owen because I did not want to speak for him, despite the fact that this was noted in the minutes. I do not know if there was any formal discussion with Mr. Owen. I have not spoken to him and I believe it would be inappropriate for me to do so.

Mr. Moyer stated it would be inappropriate for you to speak with him. If we approve the extension, his term will expire in November anyway.

Dr. Beitsch stated if he wanted to be re-appointed to the Board, the Board could re-appoint him.

Mr. Moyer stated that is correct.

| |
|---|
| On MOTION by Mr. Ivins seconded by Dr. Beitsch with all in favor Resolution 2010-1 Extending the Terms of Office of the Supervisors to Comply with Chapter 190.006(2)(c), Florida Statutes was adopted. |
|---|

Mr. Ivins asked what is the proper way to speak to Mr. Owen to see if he is interested in running?

Mr. Moyer responded I would have to speak with him.

Dr. Beitsch asked did anyone happen to see an article where Rybolt Inc. is suing the Orange County Board of County Commissioners?

Mr. Ivins responded I did see that.

Dr. Beitsch stated what is interesting about this lawsuit is that Rybolt wanted to have its land use comp plan amendment transmitted to the Department of Community Affairs. The

position of the commissioners was made clear through various public disclosures well before the formal decision was made, not to transmit the amendment. Mr. Bill Segel actually sent a Tweet out in regards to this matter. Rybolt is taking the position that all of these people spoke outside of the official venue and supposedly influenced the vote of the Commission members, which was not appropriate.

Mr. Clark stated this is an interesting theory and at first glance, you would say “That’s crazy”, but communication has changed. In the old days, when we spoke to a newspaper reporter, we would say “I am going to vote against it exercising my first amendment right”, but suddenly you have tweets and blogs. Then it begs the question, “At what point are you not talking in general or signaling consensus?”

Mr. Toumazos stated or an unsolicited comment.

Mr. Clark stated I do not think they will win, but who knows.

Dr. Beitsch stated that was precisely my thinking.

Mr. Ivins stated so we should not talk to each other through the press or tweet.

Mr. Clark stated correct.

Mr. Moyer stated in some cases, email is the same way. The rule of thumb in emails is if a Supervisor emails something to another Supervisor, as long as the other Supervisor does not respond, technically it is not a discussion. I have seen that interpretation.

Mr. Clark stated I have seen some emails that clearly were over the line.

Dr. Beitsch stated not from this group. This group has always maintained absolute decorum.

THIRD ORDER OF BUSINESS

Approval of the Minutes of the September 9, 2009 Meeting

Mr. Moyer stated that each Board member received a copy of the minutes of the September 9, 2009 meeting and requested any additions, corrections or deletions.

Dr. Beitsch stated I thought the minutes were extremely well done.

There not being any,

On MOTION by Dr. Beitsch seconded by Mr. Ivins with all in favor the minutes of the September 9, 2009 meeting were approved.

FOURTH ORDER OF BUSINESS

**Public Hearing for the Adoption of the
Fiscal Year 2011 Budget**

A. Fiscal Year 2011 Budget

Mr. Moyer stated the Board is aware of the way a CDD adopts their budget. This begins the process, in which I will ask the Board to approve Resolution 2010-2. I differentiate the word “approve” from “adopt”. We are approving the budget, but not adopting it and we will schedule a public hearing. I suggest scheduling the public hearing for August 16, 2010 at 11:00 A.M., which is the third Monday in August.

Dr. Beitsch stated I will be in South Dakota and will not return until the end of August.

Mr. Ivins stated the ICS meeting is scheduled for August 23.

Mr. Kercher asked what about August 30?

Dr. Beitsch responded the 30th works for me.

There was consensus from the Board.

Mr. Moyer stated this budget is the same as the current budget. It is not an authorization to spend the money, but an outline of what we anticipate spending on contracts. We have been operating under this budget for a long time and this is indicative of the amounts we anticipate spending without the District undertaking any capital improvements.

**B. Consideration of Resolution 2010-2 Approving the Budget and Setting a
Public Hearing**

Mr. Moyer stated Resolution 2010-2 by heading is:

“A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE XENTURY CITY COMMUNITY DEVELOPMENT DISTRICT APPROVING THE BUDGET FOR FISCAL YEAR 2011 AND SETTING A PUBLIC HEARING THEREON PURSUANT TO FLORIDA LAW”

Mr. Moyer stated we will add the public hearing date of August 30, 2010 at 11 A.M. at this location to the resolution.

| |
|--|
| On MOTION by Mr. Kercher seconded by Dr. Beitsch with all in favor Resolution 2010-2 Approving the Proposed Budget for Fiscal Year 2011 and Setting a Public Hearing for August 30, 2010 at 11:00 A.M. at the Gaylord Palms Resort & Convention Center, 6000 West Osceola Parkway, Kissimmee, Florida was adopted. |
|--|

Dr. Beitsch asked if we wanted to amend the budget, what would be the appropriate vehicle?

Mr. Kercher responded to negotiate with the developer.

FIFTH ORDER OF BUSINESS**Manager's Report****A. Financial Statements****B. Check Register****C. Funding Request**

Mr. Moyer stated the financial statements, check register and funding requests were included in your agenda package. I would be happy to answer any questions, but these are routine items and well within budget.

On MOTION by Mr. Ivins seconded by Dr. Beitsch with all in favor the financials and check registers for April 30, 2010, Funding Request No. 37 in the amount of \$4,711.20, Funding Request No. 38 in the amount of \$982.54, Funding Request No. 40 in the amount of \$919.31, Funding Request No. 41 in the amount of \$918.39, Funding Request No. 42 in the amount of \$922.02, Funding Request No. 43 in the amount of \$919.39, Funding Request No. 44 in the amount of \$917.55 and Funding Request No. 45 in the amount of \$1,295.05 were approved.

D. Report on Number of Registered Voters – (0)

Mr. Moyer stated we need to enter into the public record the number of registered voters within the District. The reason this is important is under Chapter 190, when the District is six years old and reaches 250 registered voters, we transition from a landowner's election to select Supervisors to a registered voter qualified elector election. We need 250 registered voters and at this time, we have zero registered voters. In some commercial Districts, we never have any registered voters. This is not surprising.

Mr. Ivins asked after six years, does this kick in?

Mr. Moyer responded after six years AND 250 registered voters.

SIXTH ORDER OF BUSINESS**Attorney's Report - Consideration of Hourly Rate Change**

Mr. Clark stated I sent a letter to the Board last October proposing an increase in my hourly rate to \$275 per hour. I do not increase my rates every year and we probably have not changed it for four years in this District. However, my healthcare provider, landlord and legal services provider have continued to increase their rates from four to six percent every year.

Therefore, I request approval of this rate increase to \$275 an hour, which I believe is within the market rate and based on my level of experience.

Mr. Kercher asked what is the current rate?

Mr. Clark responded it has been \$250 per hour since 2004.

Dr. Beitsch asked why did it take so long to get this item on the agenda?

Mr. Clark responded I sent the letter in October of last year and this is the first meeting since then.

Mr. Moyer stated the last meeting was September 9.

Mr. Kercher stated I assume the budget has been amended with the new rate.

Mr. Clark stated I am trying hard to stay within my budget allotment and I just cannot do it.

On MOTION by Mr. Kercher seconded by Ms. Ivins with all in favor the increase in the hourly rate for the Attorney to \$275 per hour was approved.

Mr. Clark stated I appreciate the Board approving this request.

Dr. Beitsch asked can we ask the Attorney to see what he can do about modifying the rules to allow for increases in the Supervisor fees?

Mr. Clark responded I get that question a lot, but this has never been done.

SEVENTH ORDER OF BUSINESS

Engineer's Report

There not being any, the next item followed.

EIGHTH ORDER OF BUSINESS

Supervisor Requests

Mr. Kercher asked is there any point in participating in the Rybolt litigation?

Mr. Toumazos responded I do not believe so, but this is open to discussion.

Dr. Beitsch stated I think Mr. Moyer should participate.

Mr. Toumazos stated I think this has been pushed back, in light of what has been happening in Nashville. The Opry Land hotel was flooded and will be shut down until November. There was well over \$200 million dollars in damage.

Mr. Kercher asked was there a flood?

Mr. Toumazos responded yes from the Cumberland River.

Dr. Beitsch responded this is the second time this happened.

Mr. Toumazos stated they are suing the County Engineers who set up the flood plains.

Dr. Beitsch stated after the first flood in 1975 or 1976, there was a huge flood sale of items covered in mud. We purchased several expensive picture frames for 50 cents each. We still have them.

Mr. Toumazos stated they had six to eight feet of water on the bottom floors.

Mr. Moyer stated it is amazing how little media coverage this received.

Mr. Toumazos stated I followed it nationally because it piqued our interest.

Mr. Kercher asked do you know how high the river rose?

Dr. Beitsch responded no, but the downtown side is significantly lower than it should be.

Mr. Toumazos stated the hotel was just across the river.

Dr. Beitsch stated there was a lot of damage downtown.

Mr. Toumazos stated there are lawsuits pending.

NINTH ORDER OF BUSINESS

Audience Comments

There not being any, the next item followed.

TENTH ORDER OF BUSINESS

Adjournment

There being no further business,

| |
|---|
| On MOTION by Mr. Kercher seconded by Mr. Ivins with all in favor the meeting was adjourned. |
|---|

Gary L. Moyer
Secretary

Steven R. Ivins
Chairman